

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>DOMINICK ANTONIO BATTS,</b>	:	<b>CIVIL ACTION NO. 1:07-CV-1791</b>
	:	
<b>Petitioner</b>	:	<b>(Judge Conner)</b>
	:	
<b>v.</b>	:	
	:	
<b>R. MARTINEZ,</b>	:	
	:	
<b>Respondent</b>	:	

**ORDER**

AND NOW, this 16th day of January, 2008, upon consideration of the report of the magistrate judge (Doc. 12), recommending dismissal of petitioner's writ of habeas corpus filed pursuant to 28 U.S.C. § 2241 (Doc. 1), to which objections were filed (Doc. 15), and, following an independent review of the record, it appearing that petitioner is challenging the calculation of his sentence by the Bureau of Prisons and the fact that the sentencing judge designated his place of confinement rather than the attorney general, see 18 U.S.C. § 4082(a), and the court finding that petitioner's assertion of these claims is premature because he has failed to exhaust his administrative remedies, see Moscato v. Federal Bureau of Prisons, 98 F.3d 757, 760 (3d Cir. 1996), and because his claims must first be brought under 28 U.S.C. § 2255 rather than 28 U.S.C. § 2241 unless he can establish that the remedy under § 2255 is inadequate or ineffective, see 28 U.S.C. § 2255 ("An application for a writ of habeas corpus [on] behalf of a prisoner . . . shall not be entertained if it appears that the applicant has failed to apply for relief, by motion, to the court which sentenced

him . . . unless it appears that the remedy by motion is inadequate or ineffective . . . ”), it is hereby ORDERED that:

1. The report and recommendation of the magistrate judge (Doc. 12) is ADOPTED.
2. The petition for a writ of habeas corpus (Doc. 1) is DISMISSED.
3. Any appeal from this order is DEEMED frivolous and not in good faith. See 28 U.S.C. § 1915(a)(3).
4. A certificate of appealability is DENIED. See 28 U.S.C. § 2253.
5. The Clerk of Court is directed to CLOSE this case.

S/ Christopher C. Conner  
CHRISTOPHER C. CONNER  
United States District Judge